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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

August 24, 2009

Mr. William Howe
Director, Office of Contract Management
New York State Department of Transportation
50 Wolf Road
Albany, New York 12232

Re: Contract# D261141

Dear Mr. Howe:

After a thorough review of federal stimulus contract number D261141 with Steed General Contractors, Inc., the Office of the State Comptroller's (OSC's) Bureau of Contracts is, for a second time and after having given the Department of Transportation (DOT) multiple opportunities to address the underlying issues, returning this contract non-approved. Factors influencing OSC's determination include the inadequacy of the DOT's review and unresolved questions regarding the control or influence exerted over Steed General Contractors (Steed) by debarred vendor Delphi Painting and Decorating and its owner, Steve Papastefanou Sr. These concerns are the same as those that OSC first alerted DOT of in June 2009, prior to DOT's initial submission of the contract. In spite of OSC's repeated concerns and provision of specific detailed information to DOT, DOT has not affirmatively established to OSC's satisfaction that this vendor is a responsible vendor.

To recap, the events leading to our determination to return the contract non-approved are as follows:

- June 1, 2009 - OSC's Bureau of Contract's VendRep Team (VendRep) began a detailed review of Steed General Contractors after learning that the vendor, the apparent low bidder for a DOT bridge painting contract, may be a front created by Steve Papastefanou Sr., who, along with his company Delphi Painting and Decorating, is debarred by the New York State Department of Labor for prevailing wage violations for the period October 2007 through October 2012. VendRep found enough information to preliminarily suspect that the allegation could have merit;

- June 11, 2009 - VendRep contacted DOT by phone to alert of the confidential allegations received and the findings of our preliminary vendor responsibility (VR) review. To avoid a potential delay in contract approval, VendRep asked that DOT specifically address the potential relationship between Steed, Delphi and Steve Papastefanou Sr., with contract submission. Later that day, OSC's Director of Contracts, Charlotte Breeyear, followed-up directly with DOT to reinforce the seriousness of OSC's concerns and the need for DOT to document due diligence in investigating the allegations and include the vendors' responsibility questionnaire with the contract when submitted;
- June 23, 2009 - DOT submitted D261141 for "Quick" processing without the required VendRep documentation (responsibility questionnaire or profile) and without any reference to the allegations to which OSC had alerted them. The submission of this contract as a "Quick" is contrary to long-established protocols that require any contract with responsibility issues be submitted as a non-"Quick" and be submitted with full vendor responsibility documentation, including a completed vendor responsibility questionnaire and agency profile documenting all issues and resolutions thereto. The OSC continued the detailed review started in advance of contract submission and found indications that Steve Papastefanou, Sr., may have a role in Steed, and confirmed that the Department of Labor (DOL) has a current active investigation;
- June 23, 2009 - VendRep sent information to DOT describing our findings and requesting clarification of the roles of Steve Papastefanou, Sr. in Steed, and the relationship between Steed and Delphi;
- June 26, 2009 - DOT requested that D261141 be returned non-approved, noting their office had some informal discussions with DOL and was awaiting the DOL's final determination. The OSC non-approved the transaction on June 29, 2009, as requested by DOT.
- July 21, 2009 - DOT resubmitted D261141 for "Quick" processing, again counter to established protocols for contracts with known issues. Included with the resubmission were a series of letters which attempted to address the concerns raised by OSC but which raised additional concerns with statements such as:
 - Steed uses and maintains equipment owned by Delphi...;
 - Steed may use Delphi's equipment indefinitely based on a verbal agreement...;
 - Steed is liable to Delphi for \$366,040...;
 - Steed and Delphi share warehouse space....;
 - Steve Sr. receives a small percentage in lieu of "Steed's need for payments in relation to payroll, vendors, and any of our financial obligations in order to maintain our business."...;
 - Steve Sr. comes to Steed's office regularly;
- Also included was DOT's assessment of the matter for the procurement record in the form of an undated, handwritten post-it note stating that DOL had not concluded its investigation but "DOT believes Steed is a responsible contractor for this contract";
- August 7, 2009 – DOT alerted Diane Taylor of OSC by email of the possibility that New York State (NYS) is in jeopardy of losing up to \$11M in ARRA funds due to the delay in certain contract awards, including nearly \$7M to Steed for contract D261141. This was later determined to be inaccurate information;
- August 18, 2009 - DOT informed Steed that they have concerns regarding the ownership and control of their operation and scheduled a meeting to discuss these concerns.

While OSC understands that DOT is under pressure to process the increased workload associated with federal stimulus projects and protect New York's road and highway infrastructure, OSC must insist on the highest level of accountability in expending these funds. We cannot allow the pressure to spend stimulus money to lead us to do business with non-responsible vendors when it can be reasonably detected and prevented.

Based on the events identified above, OSC believes that DOT has failed to provide adequate documentation to support its responsibility determination and consequently, we are returning the contract non-approved. If, after the responsibility meeting with Steed, DOT can adequately support and document that Steed is a responsible vendor, OSC will re-evaluate our determination, including a close review of DOT's record of the meeting with Steed.

Any contract resubmission will require, at a minimum, a written assessment of each of the issues identified in DOT's letter to Steed dated August 18, 2009, regarding the influence of Delphi and Steve Papastefanou, Sr., over Steed's operations. In addition, OSC will expect clarification of the following items.

- 1) When did Steed actually begin operations?
 - NYS DOS states it was incorporated in 1992;
 - An 8/18/09 listing of SSPC QP2 Certified Contractors states that Steed has been "Certified since: 9/22/99";
 - CCA-1 completed by Steed states they have been in operation for 18 years under the same name; *yet*,
 - Chris Papastefanou stated in a correspondence dated July 15, 2009, that his father loaned him \$500,000 to start his business *4 years ago*.

- 2) Why is Steve Papastefanou listed as a defendant and signatory in the "Stipulation and Order of Dismissal with Prejudice" on behalf of Steed General Contractors in the following case:

Structural Steel and Bridge Painters of Greater New York, Local Union No 806, The; District Council No 9 International Union of Painters and Allied Trades AFL-CIO vs. Steed General Contractors; Papastefano, Steve

- 3) Is Delphi Painting an ongoing concern? They have active Workers Compensation coverage beginning January 2009.

- 4) Is Steed related to the #2 and #3 bidders on this contract, and if so in what way?

Your attention to this matter is greatly appreciated.

Sincerely,

Diane Taylor
Assistant Director
Bureau of Contracts